

## West Virginia State Tax Department

### Sparklers And Novelties Information



The Fire Prevention and Control Act, W. Va. Code § 29-3-1 et seq., as amended, authorizes businesses that sell sparklers and novelties in West Virginia to hold both a current business registration certificate and a certificate to sell sparklers and novelties issued by the Tax Commissioner.

It remains unlawful to offer for sale, possess, expose for sale, sell at retail, or use or explode any fireworks. "Fireworks" is defined to include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation and includes, but is not limited to:

- blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used,
- the type of unmanned balloons which require fire underneath to propel the same,
- firecrackers,
- torpedoes,
- skyrockets,
- Roman candles,
- daygo bombs,
- other fireworks of like construction, and
- any fireworks containing any explosive or flammable compound or any tablets or other device containing any explosive substance.

"Fireworks" expressly does not include, and a "Certificate to Sell Sparklers and Novelties" is not required to sell:

- model rockets and model rocket engines designed, sold and used for the purpose of propelling recoverable acro models.
- toy pistols, toy canes, toy guns or other devices in which paper or plastic caps manufactured in accordance with United States Department of Transportation regulations for packing and shipping of toy paper or plastic caps are used, and
- toy paper or plastic caps manufactured as provided in United States Department of Transportation regulations for packing and shipping of toy paper or plastic caps.

NOTE: The sale and use of these items is permitted at all times. However, W. Va. Code § 29-3-23 specifies that each package containing toy paper or plastic caps offered for retail sale must be labeled to indicate the maximum explosive content per cap.

The following sparklers and novelties are not considered to be fireworks. However, a **Certificate to Sell Sparklers and Novelties** is required to sell the following items.

- Explosive caps designed to be fired in toy pistols, provided the explosive mixture of the caps does not exceed 0.25 of a grain for each cap.
- Snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a snake-like ash when burning.
- Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke.
- Trick noisemakers which produce a small report designed to surprise the user and which include:
  - A party popper, which is a small plastic or paper item containing not in excess of 0.25 of a grain of explosive mixture, and which has a string protruding from the device which is pulled to activate the device, expelling paper streamers and producing a small report.
  - A string poppers, which is a small tube containing not in excess of 0.25 of a grain of explosive mixture that has a string protruding from both ends which is pulled to activate the friction-sensitive mixture, producing a small report.
  - A snapper or drop pop, which is a small pager wrapped item containing no more than 0.25 of a grain of explosive mixture coated on small bits of sand that, when dropped, produces a small report.
- Wire sparkler consisting of wire or stick coated with a nonexplosive pyrotechnic mixture of 100 grams or less per item, that produces a shower of sparks upon ignition.
- Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, are hand-held or ground-based, cannot propel themselves through the air and contain not more than 75 grams of chemical compound per tube, or not more than a total of 200 grams if multiple tubes are used.

NOTE: These sparklers and sparkler devices may not be sold to anyone under the age of 16.

Any business that has a current West Virginia Business Registration Certificate and desires to sell sparklers and novelties in West Virginia must apply for a Certificate to Sell Sparklers and Novelties (SN-1) from the Tax Commissioner prior to offering such items for sale. A separate Certificate to Sell Sparklers and Novelties, along with the \$15 fee, is required for each location in this State from which items will be sold. (Under W.Va. Code §11-12-86, the \$15 fee may not be prorated.)

Effective April 1, 2012, Certificate to Sell Sparklers and Novelties issued will run concurrently with the Business Registration Certificate for each location. The Business Registration and Certificate to Sell Sparklers and Novelties are considered permanent until the Business Registration Certificate is suspended, revoked or cancelled by the Tax Commissioner. Upon reinstatement of the Business Registration Certificate, a Reissuance of Sparklers and Novelties (SN-2) and \$15 fee are required to issue a new Certificate to Sell Sparklers and Novelties.

In summary:

- A business location that wants to sell sparklers and novelties in West Virginia must have a valid Business Registration Certificate and a Certificate to Sell Sparklers and Novelties Registration Certificate. The certificates are to run concurrently and are to be considered permanent until cessations or until the Business Registration Certificate is suspended, revoked or cancelled by the Tax Commissioner.
- A business location that has a current Business Registration Certificate and wants to sell sparklers and novelties must apply with the Tax Commissioner for a Certificate to Sell Sparklers and Novelties (SN-1) prior to offering such items for sale.
- A business location desiring to offer for sparklers and novelties for sale that does not have a current Business Registration Certificate must complete and submit Application for Business Registration (WV/BUS-APP) and apply for a Certificate to Sell Sparklers and Novelties (SN-1) and remit all applicable fees.
- A business that has multiple locations in this State from which sparklers and novelties will be sold must have current Business Registration Certificate and current Certificate to Sell Sparklers and Novelties for each location.

If you have questions concerning the Certificate to Sell Sparklers and Novelties , please contact the:

West Virginia State Tax Department  
Revenue Division  
Registration and Account Correction Unit  
P.O. Box 2666  
Charleston, WV 25330  
(304)558-8683

For additional tax questions, please contact:  
Compliance and Taxpayer Services  
(304)558-3333  
1-800-WVA-TAXS (1-800-982-8297)

Visit website: [www.wvtax.gov](http://www.wvtax.gov)